

REMARKS

Independent claim 13 has been amended to more clearly define the method in accordance with the present invention including premixing of selected resin pellets with dyestuffs enabling transmission of visual blue wavelength. No new matter is added by this amendment inasmuch as this method was originally disclosed in the specification.

The Examiner has rejected claim 13 under 35 USC 103(a) as being unpatentable over U.S. 5,799,837 to Firestone, et al. in view of U.S. Patent Application Publication 2001/0048988 to Forte, et al.

In this rejection, the Examiner has stated that Firestone, et al. shows it is known to carry out a method of forming a bottle useful as a pharmaceutical container and dispenser utilizing a mixture of polypropylene and resin with UV absorbers.

The Examiner acknowledges that Firestone does not show for a second and third sets of resin pellets or providing dyestuffs to the pellets and therefore refers to Forte to show that it is known to carry out a method of making a bottle useful as a pharmaceutical container.

While the teachings generally show the use of bottles for pharmaceutical containment and utilization of dyes, the Applicants still maintain that the prima facie case of obviousness under 35 USC 103(a) has not been established due to the unique characteristics of dyestuffs for transmission of visual blue wavelengths as well as and order of mixture.

As earlier argued, the test under 35 USC 103 is whether the claimed invention as a whole in light of all the teachings of the references in their entirety would have been obvious to one of ordinary skill in the art at the time the invention was made.

The Examiner is gathering features from Forte, et al. which do not teach the whole of the present invention does not establish a prima facie case of obviousness.

The Examiner has stated that any order of mixing ingredients is prima facia obvious. However, the Applicants emphasize that in the world of dyestuffs, combinations of dyes provide unique results, as the Applicants evidence by referring the Examiner to the attached article particularly directed to blue and purple dyes in Saudi Aramco World, Volume 11, No. 7, August/September 1960 entitled "Tyrian Purple" (earlier submitted). A reading of this article gives incite as to the nature of dyestuff in which the Tyrians obtain colors of different shades yet none of their Mediterranean neighbors using the same species of shellfish could match them.

A similar case is presented here. It is the unique combination of the dyestuffs and the order in which they are introduced into the bottle which provides for a unique result.

In addition to the selection of dyestuffs set forth by the Applicants, the order of mixing such dyestuffs further define the invention. The order of mixing is recognized as being important with regard to resins. For example, see U.S. 7,142,361 entitled "Optical Material Adhesive Fill Including Optical Material and Projection Screen Including Film" at

column 4, lines 23-24 wherein it is stated: "To obtain a stable material 28 resin, the order of mixing components is important." (Emphasis added)

None of the references cited by the Examiner suggests the present invention when taken as a whole which includes this specific combinations of dyestuffs and the order of mixing as well as a combination of dyestuff for the transmission of visual blue wavelength. The references are totally silent in this issue.

The problem addressed by the invention is providing a container system which can provide not only product integrity but also enable visual inspection of the contents while at the same time providing a distinctive color which can be recognized by the user.

The inventors efforts have resulted in a unique combination of dyestuffs and order of combining the dyestuffs in order to solve this problem. None of the references relied on by the Examiner recognize or address this problem. The Examiner is merely using tidbits from selected references to illustrate that components of the Applicants invention were known. However, the combination claimed, including the methodology of combination is nowhere to be found in the references.

Therefore, in summary the Applicants submit that the Examiner has not made a prima facie case of obviousness for amended claim 13 under 35 USC 103(a) on the basis of the Firestone, et al. and Forte, et al. references. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 14-16 rejected by the Examiner have been cancelled.

In view of the arguments hereinabove set forth which are substantiated by submitted references along with amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,  
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